

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

WALLACE WHITELY, #324812 §
§
V. § CIVIL ACTION NO. G-03-555
§
NICK RUSSO, ET AL. §

PARTIAL ORDER OF DISMISSAL

Before the Court for its Order of Acceptance is a Report and Recommendation of the United States Magistrate Judge, entered on November 7, 2005, to which no objections have been filed.

Upon appropriate review pursuant to Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1)(C), the Court is satisfied that there is no clear error on the face of the record in these proceedings. Accordingly, the Report and Recommendation is **ACCEPTED** in its entirety and incorporated herein by reference.

With respect to claims for monetary damages against Defendants in their official capacities, it is **ORDERED** that Defendants' Motion to Dismiss is **GRANTED**.

It is further **ORDERED** that Defendants' Motion to Dismiss is **DENIED** as to claims of deliberate indifference to serious medical needs.

This matter shall be returned to the Magistrate Judge for further proceedings.

DONE at Galveston, Texas, this the 16th day of December, 2005.

Samuel B. Kent
Samuel B. Kent
United States District Judge